

REMARKS/ARGUMENTS

Applicant responds herein to the Office Action dated February 26, 2007.

Applicant's attorneys appreciate the Examiner's continued thorough search and examination of the present patent application.

Claims 1-31 are pending in this application. Claims 6-20 and 23-31 have been withdrawn. Claims 1-5, 21 and 22 have been rejected.

In response to the Examiner's objection, claims 6 and 20 have been properly labeled as withdrawn.

Claims 1-5 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,456,006 to Wevers ("Wevers").

Reconsideration and withdrawal of this rejection are respectfully requested.

Independent claims 1 and 21 have been amended to recite "applying a force to the elongated sections of the clip in an area of the non-linear deformable region causes the proximal insertion tips to pivot." Support for the pivoting may be found in a description provided in paragraph 0022 of the present application with respect to Figs. 3a through 3d. The description teaches that separating or bringing the elongated sections 115a, 115b closer together causes the engagement legs 105a, 105b to separate or to come closer together to one another.

Contrarily, it is impossible for Wevers' device, shown in Figs. 1 to 4B, to provide this converging or separating action recited as "pivot" in claims 1 and 21, which causes the bone fragments to be held more securely together. This is because of the bulk of the Wevers' device near the portions 15 between the side arms 10 and 11 and the legs of the Wevers' clip. The massive portions 15, do not allow an increase or decrease in the gap between the side arms 10 and 11 to cause the legs to "pivot" imparting the above-described converging/diverging action.

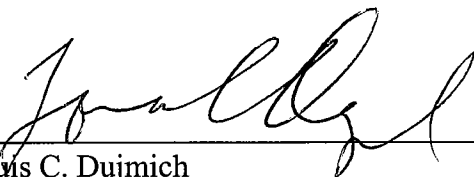
Thus, Wevers does not anticipate Applicants' independent claims 1 and 21.

Claims 2-5 and 22 depend directly from the above discussed independent claims and are, therefore, allowable for the same reasons, as well as because of the combination of features in those claims with the features set forth in the respective independent claims.

In view of the above, it is submitted that all claims in this application are now in condition for allowance, prompt notification of which is requested.

THIS CORRESPONDENCE IS BEING
SUBMITTED ELECTRONICALLY THROUGH
THE PATENT AND TRADEMARK OFFICE EFS
FILING SYSTEM ON March 27, 2007.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Louis C. Dujmich", is written over a horizontal line.

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